

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

FREEDOM FROM RELIGION	§	
FOUNDATION, INC.,	§	
<i>Plaintiff,</i>	§	
	§	
V.	§	No. 1:16-cv-00233-LY
	§	
GOVERNOR GREG ABBOTT AND ROD	§	
WELSH, EXECUTIVE DIRECTOR OF THE	§	
TEXAS STATE PRESERVATION BOARD,	§	
in their official capacities,	§	
<i>Defendants.</i>	§	

**DEFENDANTS' OPPOSED MOTION FOR EXTENSION OF TIME
TO FILE OBJECTIONS TO BILL OF COSTS AND MOTION FOR
ATTORNEY'S FEES**

Defendants Greg Abbott, in his official capacity as Governor, and Rod Welsh, in his official capacity as Executive Director of the Texas State Preservation Board, (collectively “Defendants”) file this Opposed Motion for Extension of Time to File Objections to Bill of Costs and Motion for Attorney’s Fees. Defendants respectfully request this Court to extend Defendants’ deadlines for filing (1) objections to Plaintiff’s Bill of Costs and (2) objections to Plaintiff’s forthcoming motion for attorney’s fees until thirty (30) days after the exhaustion of all appeals in this matter.

Pursuant to Federal Rule of Civil Procedure 54(d)(2) and Local Court Rule CV-7(j), Plaintiff’s original deadline to file a motion for attorney’s fees was May 19, 2021. On May 17, 2021, Plaintiff filed an unopposed motion to extend that deadline to June 18, 2021, which this Court granted. *See* Docket Nos. 128, 130.

On May 18, 2021, Plaintiff filed a Bill of Costs. *See* Docket No. 129. Pursuant to Local Court Rule CV-54(b), the original deadline for Defendants to file objections to Plaintiff's Bill of Costs was June 1, 2021. On May 28, 2021, Defendants filed an unopposed motion to extend that deadline to July 1, 2021, which this Court granted. *See* Docket Nos. 132, 133.

On May 27, Defendants filed a Notice of Appeal from this Court's orders upon remand from the Fifth Circuit. *See* Docket No. 131. Defendants believe that litigation in this Court regarding attorney's fees and costs should await the resolution of appellate proceedings in this case. The parties have litigated this case since 2016, and Plaintiff will be requesting fees for multiple attorneys connected with multiple law firms and organizations over the course of several years. It is unnecessary for the parties and for this Court to expend the significant time and resources that would be required to litigate attorney's fees and costs in this matter until after the conclusion of appellate proceedings. Until then, it is not clear as to which parties will ultimately prevail on which causes of action and what the appropriate fees and/or costs in this matter may be. In short, litigation in this Court regarding fees and costs before the resolution of appellate proceedings is unnecessary, premature, and inefficient. Thus, Defendants request the Court to extend their deadlines for filing objections to Plaintiff's Bill of Costs and Plaintiff's forthcoming motion for attorney's fees until thirty (30) days after the exhaustion of all appeals in this matter.

CONCLUSION

For the foregoing reasons, Defendants request this Court to extend their deadlines for filing (1) objections to Plaintiff's Bill of Costs and (2) objections to any

motion for attorney's fees that may be filed by Plaintiff until thirty (30) days after the exhaustion of all appeals in this matter.

Respectfully submitted.

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

GRANT DORFMAN
Deputy First Assistant Attorney General

SHAWN E. COWLES
Deputy Attorney General for Civil Litigation

THOMAS A. ALBRIGHT
Chief - General Litigation Division

/s/ Benjamin S. Walton
BENJAMIN S. WALTON
Texas Bar No. 24075241
Assistant Attorney General
General Litigation Division
P.O. Box 12548
Austin, Texas 78711
(512) 463-2120 – Phone
(512) 320-0667 – Fax
benjamin.walton@oag.texas.gov

Counsel for Defendants

CERTIFICATE OF CONFERENCE

On June 8, 2021, I conferred via telephone with Rich Bolton, counsel for Plaintiff, regarding whether Plaintiff would agree to postpone litigation in this Court regarding attorney's fees and costs until after the resolution of appellate proceedings in this case. Mr. Bolton informed me that Plaintiff did not agree.

/s/ Benjamin S. Walton
BENJAMIN S. WALTON
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2021, a true and correct copy of this document was electronically filed using the Court's CM/ECF system, which will send notification of such filing to the following counsel of record:

Richard L. Bolton
BOARDMAN AND CLARK, LLP
1 S. Pinckney St., Suite 410
Madison, Wisconsin 53703-4256
(608) 257-9521
rbolton@boardmanclark.com

Sam Grover
Patrick Elliott
FREEDOM FROM RELIGION FOUNDATION, INC.
P.O. Box 750
Madison, Wisconsin 53701
(608) 256-8900
sgrover@ffrf.org
pellott@ffrf.org

Counsel for Plaintiff

/s/ Benjamin S. Walton
BENJAMIN S. WALTON
Assistant Attorney General